THE HON'BLE SRI JUSTICE N.V. RAMANA

W.P. No. 11101 of 1996

Oral order:

Assailing the award dated 17.10.1995, passed by the Labour Court, Hyderabad, in I.D. No. 28 of 1995, the petitioner filed the present writ petition. By the said award, the Labour Court set aside the order of removal passed against the 1st respondent-workman and directed the petitioner-Depot Manager, Kukatpally Depot, to reinstate the 1st respondent-workman into service with backwages and attendant benefits.

Heard the learned Standing Counsel for the petitioner-APSRTC and the learned counsel for the 1st respondent-workman and perused the impugned award.

It is the contention of the learned Standing Counsel for the petitioner-APSRTC that the accident occurred on account of the negligence of the 1st respondent-workman, but the Labour Court without considering the enquiry report had committed an error in holding that the accident did not occur on account of the negligence of the 1st respondent-workman.

I am unable to agree with this contention of the petitioner.

A reading of the impugned award would disclose that the accident occurred when the cyclist who came under the wheels of the bus run by the 1st respondent-workman was hit by an auto rickshaw. Had not the auto rickshaw hit the cyclist, the cyclist would not have come under the wheels of the bus driven by the 1st respondent-workman, resulting in the accident. Thus it is clear that it is not the bus driven by the 1st

respondent had hit the cyclist, but the cyclist himself came under the wheels of the bus driven by the 1st respondent when he was hit by an auto rickshaw. In that view of the matter, no exception can be taken to the finding recorded by the Labour Court that there is no negligence on the part of the

1st respondent-workman in causing the accident and that he was not directly responsible, and it cannot be said the Labour Court has ignored the enquiry report, and more so when the Labour Court held that the sketch and report prepared by the enquiry officer after the accident, was imaginary.

For the foregoing reasons, there is no merit in the writ petition, and the same is accordingly dismissed. However, as observed by the Labour Court, the petitioner-APSRTC is at liberty to initiate fresh enquiry in the event the 1st respondent-workman is convicted in the criminal case. No costs.

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N.V. RAMANA, J.

Date: 31st January, 2007.
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